

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

CELERINO CARRASCO,

Plaintiff,

v.

UNITED STATES GOVERNMENT,  
DEPARTMENT OF HOMELAND  
SECURITY, et al.,

Defendants.

Case No. C06-5084RJB

ORDER ADOPTING  
REPORT AND  
RECOMMENDATION OF  
THE MAGISTRATE  
JUDGE AND  
DISMISSING CASE

This matter comes before the court on the Report and Recommendation of the magistrate judge.  
Dkt. 37. The court has considered all the entire record in this case.

Plaintiff filed a civil rights complaint and is proceeding *in forma pauperis*. February 12, 2007, the magistrate judge issued a Report and Recommendation, recommending that this case be dismissed without prejudice for failure to properly serve defendants with a summons and copy of the complaint, or in the alternative, that the court should dismiss the matter with prejudice because plaintiff has failed to state any cognizable claim against any individual participant. Dkt. 37.

On February 28, 2007, the court received a document captioned "Objections Against Order." Dkt. 38; the court has considered this documents to be objections to the February 12, 2007 Report and Recommendation. On March 2, 2007, the court received two documents filed in another case that plaintiff has pending (C06-5104RJB). The documents are captioned "Supersiding [sic] Objections and Appeal Against Order Dismissed" (C06-5104RJB, Dkt. 20) and "Supersiding [sic] Objections for Purposes of

1 Appeal and Against Order of Dismissal” (C06-5104RJB, Dkt. 21). It is unclear whether plaintiff intended  
2 that the court consider these documents in reference to C06-5104RJB or in reference to this case. It is  
3 also unclear whether plaintiff intended these documents to be objections to the Report and  
4 Recommendation or to be a Notice of Appeal. In an effort to give plaintiff every benefit of the doubt, the  
5 court has considered all of these documents in reference to this case and to C06-5104RJB. In addition, the  
6 court has considered these two documents filed on March 2, 2007 to be objections to the Report and  
7 Recommendation in this case and in C06-5104RJB, and to constitute notices of appeal in both of the cases.

8  
9 The Report and Recommendation clearly sets forth the procedural history in this case. The court  
10 concurs with the conclusion of the magistrate judge that plaintiff has failed to state a civil rights claim  
11 against any of the named defendants. However, it is not appropriate for the court to direct plaintiff to file  
12 an amended complaint in an attempt to cure any deficiencies. Plaintiff has not properly served any of the  
13 named defendants, as he had been ordered to do. He was informed of his responsibility to properly serve  
14 the named defendants. Although plaintiff is now residing in Mexico, he has had adequate time and  
15 opportunity to properly serve defendants, and to provide proof of service. He has failed to effectuate  
16 proper service under Fed.R.Civ.P. 4. Plaintiff believes that sending a summons and/or complaint through  
17 the mail to the Correctional Services Corporation of America, the United States Department of Homeland  
18 Security, and U.S. Citizenship Immigration Service constitutes adequate service. The magistrate judge  
19 thoroughly and carefully reviewed the requirements for proper service of a summons and complaint;  
20 plaintiff did not comply with those requirements. Accordingly, the court should dismiss this case.

21 The court has previously vacated the judgment in this case so that documents plaintiff untimely filed  
22 could reviewed on the merits. Any documents received from plaintiff after judgment is again entered in  
23 this case should be placed in the file by the Clerk, but the court will not consider them.

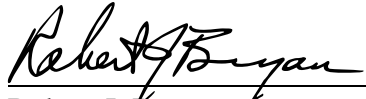
24 Therefore, it is hereby

25 **ORDERED** that the Report and Recommendation of the magistrate judge (Dkt. 37) is  
26 **ADOPTED**. This case is **DISMISSED**. **The Clerk is directed to file any documents received from**  
27 **plaintiff after judgment is entered, but the court will not consider them.** The Clerk is further directed  
28 to file in this case the document captioned “Supersiding Objections and Appeal Against Order Dismissed,”

1 which as been filed as Dkt. 20 in Case No. C06-5104RJB, and “Supersiding Objections of Appeal and  
2 Against Order of Dismissal,” which as been filed as Dkt. 21 in Case No. C06-5104RJB, and to process  
3 these documents as a Notice of Appeal in this case (C06-5084RJB).

4 The Clerk is directed to send uncertified copies of this Order to all counsel of record and to any  
5 party appearing *pro se* at said party’s last known address.

6 Dated this 9<sup>th</sup> day of March, 2007.

7   
8 Robert J. Bryan  
9 United States District Judge